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Remarks.

Reconsideration of the application as amended is respectfully requested.

Claims 1-4 remain in this application, and each has been amended. Claims 5-6 have been withdrawn from consideration.

**Claim Rejections - 35 U.S.C. §112**

The Examiner rejected claims 1-4 as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. The Examiner stated:

"there is an inconsistency between the language in the preamble and a certain portion or portions of the body of the claim ... Applicant is required to clarify what subject matter the claim is intended to be drawn to ... In claims 1-4, it is not clear what applicant considers to be the crimp edge of the label."

Claims 1-4 have been amended to recite a combination of an extended text label and tube container as disclosed in the specification, thereby eliminating any inconsistency. Also, as aforesaid relative to the drawings, all references to "crimp edge" have been stricken from the claims.

**Claim Rejections - 35 U.S.C. §103**

The Examiner rejected claims 1-2 as being unpatentable over Kaufmann (5,672,224) in view of O'Reilly, et al. (5,373,966).

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Applicant respectfully points out that Kaufmann's element 5 is an "edge (the hinge)" (Col. 3, line 1). There is no teaching or suggestion in Kaufmann of any capability of attachment of element 5 via a crimp method whatsoever.

Kaufmann discloses a pressure-sensitive adhesive booklet-type label, with adhesive entirely coating, or "flood coating", the back surface of the bottom ply 3 (Col. 3, lines 5-8). As taught in Applicant's specification, there is no possibility in Kaufmann's construction of successfully securing the label to a tube because of how the pliable tube is squeezed, in use. In contrast, Applicant's combination is not affected by squeezing because the extended text label is not secured to the tube surface in the manner of a traditional tube label (Compare Applicant's Figs. 1 and 4).

Also, Applicant cannot discern any relationship between the O'Reilly, et al. patent, and his invention. In O'Reilly, et al., a sachet is disclosed, which is well known in the art to be of the "single use" variety of containers and which has, furthermore, never been considered to be a tube. Once the sachet is used, it is discarded. In Applicant's combination, however, a contained product may be repeatedly dispensed from the tube with no effect upon the secured extended text label, since the label is only secured to the tube at the filling end via the crimp method.

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Additionally, relative to Applicant's claim 2, Kaufmann does not teach or suggest a pliable attachment tongue. Nowhere in Kaufmann could a description of a "tongue", nor any synonymous term or similar description, be found.

As to the rejection of claims 3 and 4 over Kaufmann in view of O'Reilly, et al. and in further view of Weiss, et al., Applicant renews his observations on the two references as stated above. The teaching of Weiss, et al. is that of a label for a specimen container which indicates, by alignment of indicia between separated label portions, desired "overtightening" of a lid to which one of the label portion is affixed (Col. 1, lines 38-68, and col. 2, lines 8). Again, Applicant respectfully points out that there exists no motivation in the art to combine the teachings of these various, unrelated references.

In total, Applicant's invention is directed to a heretofore unknown combination of a tube container and an extended text label, and a novel securing of the label to the tube. None of the cited references, either alone or in combination, would lead one of ordinary skill in the art to Applicant's claimed invention.

#### **Conclusion**

Claims 1-4 remain in this application, and have been amended to overcome various rejections. Claims 5-6 have been withdrawn as a

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result of an earlier election requirement, and Applicant asserts a right to present claims 5-6 in a divisional or other continuing application.

For the reasons stated above, Applicant believes that his invention disclosed and claimed in the instant application is not indefinite, anticipated, or obvious. Therefore, allowance of claims 1-4 as now amended appears to be in order and such action is accordingly requested.

This Amendment is presented in accordance with a Sample Format For Revised Amendment Practice (Rev. 2/03).

A Petition for extension of time to respond to the Office Action, along with a payment form for a prescribed extension of time fee, are also transmitted herewith.

The Applicant and his counsel would appreciate any further inquiry from the Examiner, if deemed necessary after consideration of this Amendment, by way of a telephone conversation with counsel so that a timely Notice of Allowance may be issued.

Respectfully submitted,  
Joseph D. Franko, Sr.

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By:

W.K. Roloff

Walter K. (Kevin) Roloff  
Counsel for Applicant  
Atty. Reg. No. 36,907  
Direct tel. (612) 619-2354

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Drawings.

The Examiner objected to the drawings as not showing a "crimp edge" element of the claims.

A crimp edge is not a feature of the invention. Therefore, as directed in the alternative by the Examiner, all references to "crimp edge" have been stricken from the claims as amended below.